

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

LEONARD CARTER,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 2:16-cv-00688 JRC

ORDER ON PLAINTIFF'S
COMPLAINT

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, Dkt. 7; Consent to Proceed Before a United States Magistrate Judge, Dkt. 9). Plaintiff filed an opening brief (*see* Dkt. 12) and defendant filed her response (*see* Dkt. 13). Plaintiff did not file an optional reply brief.

After considering and reviewing the record, the Court concludes that the ALJ did not commit harmful legal error when evaluating plaintiff's Social Security applications.

1 For example, one of plaintiff's examining doctors expressed concerns regarding
2 malingering, and noted that plaintiff's presentation was not consistent. Dr. Meis noted
3 that plaintiff "clearly has a focus on obtaining benefits, and his level of thought
4 organization and persistence in attempting to obtain benefits appears to be excellent, and
5 are not hindered by thought disorganization or delusional content" (AR. 925). However,
6 in contrast, plaintiff endorsed flagrant delusional content, such as indicating a desire to
7 build a spaceship in order to leave the planet (*id.*). Dr. Meis also noted that plaintiff
8 demonstrated relatively "good performance on the cognitive exam, and good
9 performance on ADLs" (AR. 927).

11 In addition, plaintiff's alleged social limitations and some of the medical opinions
12 regarding social limitations are inconsistent with plaintiff's presentation to the CDIU
13 investigator, who found that plaintiff "was very neat and organized [and] did not appear
14 to be anxious or uncomfortable and he was confident, down to earth, and easy to talk
15 with" (AR. 616-17).

16 Therefore, for these and other reasons discussed herein, this matter is affirmed
17 pursuant to sentence four of 42 U.S.C. § 405(g).

18 BACKGROUND

19 Plaintiff, LEONARD CARTER, was born in 1958 and was 49 years old on the
20 alleged date of disability onset of May 31, 2008 (*see* AR. 266-72, 273-78). Plaintiff has
21 some college credits in aviation welding and criminal justice (AR. 695-97). Plaintiff last
22 worked doing telemarketing, and stopped work in 2006 (AR. 334, 700-01). Plaintiff
23 contends that he was fired because he complained about a coworker "who started calling
24

1 him all kinds of names” (AR. 921). At his July 12, 2012 hearing, plaintiff testified
2 that he currently was maintaining a full-credit educational load of 12 credits or more (*see*
3 AR. 56). He attended school Monday through Thursday from 10:00 am to 5:30 pm (*see*
4 AR. 613). At the time of this hearing, plaintiff testified that he had a GPA of 4.0 (AR.
5 57). On May 8, 2015, plaintiff reported that he “has a two-year welding degree, and is
6 studying electrical engineering” (AR. 613, 921).

7
8 According to the ALJ, plaintiff has at least the severe impairments of “paranoid
9 schizophrenia versus paranoid personality disorder versus personality disorder with
10 antisocial, schizotypal, and paranoid traits; depression; a history of substance dependence
11 in remission; left lower extremity impairment/pain; obesity; and hypertension (20 CFR
12 404.1520(c) and 416.920(c))” (AR. 612).

13 At the time of the hearing on July 12, 2012, plaintiff was living alone in an
14 apartment (AR. 703-04).

15 PROCEDURAL HISTORY

16 Plaintiff’s applications for disability insurance benefits (“DIB”) pursuant to 42
17 U.S.C. § 423 (Title II) and Supplemental Security Income (“SSI”) benefits pursuant to 42
18 U.S.C. § 1382(a) (Title XVI) of the Social Security Act were denied initially and
19 following reconsideration (*see* AR. 111-24, 125-38, 142-62, 163-84). Plaintiff’s initial
20 hearing resulted in an unfavorable decision by the ALJ and a reversal and remand from
21 the Court (*see* AR. 719-38, 755-71). Following remand, plaintiff failed to appear for his
22 scheduled hearing before Administrative Law Judge Wayne N. Araki (“the ALJ”) on July
23 30, 2015 (*see* AR. 715-18). On February 26, 2016, the ALJ issued a written decision in
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1 which the ALJ concluded that plaintiff was not disabled pursuant to the Social Security
2 Act (*see* AR. 606-28).

3 In plaintiff's Opening Brief, plaintiff claims he is unable to work because of his
4 physical and mental disabilities and that Ms. Cindy Meinecke, A.R.N.P., M.P.H and Dr.
5 Hopfenbeck opined that plaintiff could not work in society (*see* Dkt. 12).

6 STANDARD OF REVIEW

7 Pursuant to 42 U.S.C. § 405(g), this Court may set aside the Commissioner's
8 denial of social security benefits if the ALJ's findings are based on legal error or not
9 supported by substantial evidence in the record as a whole. *Bayliss v. Barnhart*, 427 F.3d
10 1211, 1214 n.1 (9th Cir. 2005) (*citing Tidwell v. Apfel*, 161 F.3d 599, 601 (9th Cir.
11 1999)).
12

13 DISCUSSION

14 Plaintiff is proceeding *Pro Se* and challenges generally the ALJ's assessment of
15 his physical and mental limitations (*see* Dkt. 12, pp. 1-2). The Court has liberally
16 construed his pleading. Defendant contends that there is no harmful legal error (*see* Dkt.
17 13).
18

19 **1. Mental complaints and limitations**

20 **a. Dr. Peter Meis, M.D., examining psychiatrist**

21 Plaintiff indicates in his Opening Brief that he "cannot work in society," indicating
22 reliance on opinions from Dr. James H. Hopfenbeck, M.D. and his assistant, Ms.
23 Vanessa Zsandani (Dkt. 12, p.1 (citing AR. 562, 568, 577)). However, as noted by the
24 ALJ, in May, 2015, plaintiff indicated to an examining psychiatrist, Dr. Peter Meis, M.D.,

1 that he felt as if other people did not like him, but he reported that he nevertheless got
2 along with others, and denied any behavioral problems at school (AR. 923; *see also* AR.
3 613 (citing B21F)).

4 The ALJ must provide “clear and convincing” reasons for rejecting the
5 uncontradicted opinion of either a treating or examining physician or psychologist.
6 *Lester v. Chater*, 81 F.3d 821, 830 (9th Cir. 1996) (citing *Embrey v. Bowen*, 849 F.2d
7 418, 422 (9th Cir. 1988); *Pitzer v. Sullivan*, 908 F.2d 502, 506 (9th Cir. 1990)). When an
8 opinion from an examining or treating doctor is contradicted by other medical opinions,
9 the treating or examining doctor’s opinion can be rejected only “for specific and
10 legitimate reasons that are supported by substantial evidence in the record.” *Lester v.*
11 *Chater*, 81 F.3d 821, 830-31 (9th Cir. 1996) (citing *Andrews v. Shalala*, 53 F.3d 1035,
12 1043 (9th Cir. 1995); *Murray v. Heckler*, 722 F.2d 499, 502 (9th Cir. 1983)); *see also* 20
13 C.F.R. §§ 404.1527(a)(2) (“Medical opinions are statements from physicians and
14 psychologists or other acceptable medical sources that reflect judgments about the nature
15 and severity of your impairment(s), including your symptoms, diagnosis and prognosis,
16 what you can still do despite impairment(s), and your physical or mental restrictions”).
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18 At his most recent psychiatric evaluation, regarding persistence, plaintiff reported
19 to Dr. Meis that “he spends ‘endless’ hours studying at school” (*id.*). Plaintiff also denied
20 “having psychiatric problems which interfere with chores, shopping, transportation, or
21 with self-hygiene” (*id.*).
22

23 Plaintiff reported to Dr. Meis that “he wants to build a space shuttle and use
24 starlight and bounce all over the universe” (*id.*). He indicated that he would be able to

1 accomplish building his own space shuttle if he only had the funds (*id.*). He indicated that
2 he does not attempt to do telemarketing work again because “white people don’t like
3 him,” although he admits that he is not applying for work (*id.*). He does not appear to
4 think that there are any other limitations preventing him from performing telemarketing
5 work, and, as noted by the ALJ, plaintiff testified that “he enjoyed selling papers and
6 magazines over the telephone and that he had thought about going into telemarketing
7 business for himself, but lacked the financial resources” (*see id.*; *see also* AR.
8 618).

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10 Although Dr. Meis opined that plaintiff “endorsed significant delusional content,
11 [he indicated that he] was not convinced [that plaintiff] was fully invested in what he was
12 talking about” (AR. 924). The psychiatrist noted that plaintiff’s “level of though[t]
13 organization and delusional content varied through the interview according to topic,” and
14 Dr. Meis indicated he “was not always sure that [plaintiff] was spontaneous in his
15 presentation” (*id.*).

16 Despite plaintiff’s report of a “down” mood, Dr. Meis observed that plaintiff’s
17 “affect was euthymic, if slightly discouraged at times, and it was appropriate to content
18 and incongruent with stated mood” (*id.*). Dr. Meis opined that plaintiff’s “affective range
19 was fairly normal” (*id.*).

20 On mental status examination (“MSE”), Dr. Meis observed that plaintiff’s remote
21 and recent memory were intact (*id.*). Dr. Meis also indicated that during “the narrative
22 portion of the exam, [plaintiff’s] concentration was fair, and the claimant was not easily
23 distracted” (*id.*). Plaintiff performed a simple three step task “easily” (*id.*).
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1 In his discussion/prognosis, Dr. Meis opined that plaintiff “clearly endorses a
2 history of deceitfulness with lack of remorse, and is clearly benefit-seeking” (AR. 925).
3 Dr. Meis opined that plaintiff’s psychotic symptoms are atypical. Although plaintiff
4 endorsed flagrant delusional content, Dr. Meis opined that plaintiff “does not appear to be
5 convincingly invested in these beliefs” (*id.*). Dr. Meis also noted that plaintiff’s “beliefs
6 themselves are both unusual and vague, and not persistent or pervasive throughout the
7 interview” (*id.*). Dr. Meis noted that when he asked plaintiff to “elaborate on his beliefs,
8 he becomes vaguer” (*id.*). Dr. Meis noted that plaintiff “displays varying level of thought
9 organization, most times being organized and linear” (*id.*). Dr. Meis noted that
10 varying “level of thought organization during a single presentation is highly atypical”
11 (*id.*). Dr. Meis noted that plaintiff “clearly has a focus on obtaining benefits, and his level
12 of thought organization and persistence in attempting to obtain benefits appears to be
13 excellent, and are not hindered by thought disorganization or delusional content” (*id.*).
14 Dr. Meis opined that going to “outpatient psychiatric care while refusing to take
15 medication generally does not make sense for someone with psychosis and no insight,
16 [and] would be an excellent way of documenting a history of mental illness without
17 exposing yourself to medication side effects, for someone interested in obtaining
18 benefits” (*id.*). Dr. Meis indicated that he had a “concern for malingering,” although he
19 noted that it is possible that plaintiff “is both malingering and psychiatrically impaired
20 from a personality standpoint” (*id.*).
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23 Regarding functional limitations, Dr. Meis opined that plaintiff suffers only from
24 mild limitations in cognitive areas, such as understanding and remembering complex

1 instructions, noting plaintiff's relatively "good performance on the cognitive exam, and
2 good performance on ADLs" (AR. 927). However, regarding social limitations, Dr. Meis
3 opined that plaintiff suffered from various marked limitations, such as plaintiff's ability
4 to interact appropriately with the public, with supervisors, with coworkers, and to
5 respond appropriately to usual work situations and changes in a routine work setting (AR.
6 928). In support, Dr. Meis opined that plaintiff, socially, was "very inappropriate and
7 offensive," and that he "may become overly fixated on unproductive endeavors, for
8 example, spaceship building" (*id.*).
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10 Noting Dr. Meis's indication of the importance of obtaining collateral information
11 to validate plaintiff's presentation and reported history, the ALJ "ordered a CDIU
12 [Cooperative Disability Investigations Unit] investigation, which was completed in late-
13 2015 and revealed inconsistencies that erode the claimant's" allegations and testimony
14 (AR. 616; *see also* AR. 1053-63). As noted by the ALJ, contrary to the opinions from
15 various doctors and providers "that the claimant was always hostile, angry, and
16 disorganized, [plaintiff] was very receptive when he met the investigator" (*id.*). The ALJ
17 noted that during this encounter, plaintiff "was very neat and organized [and] did not
18 appear to be anxious or uncomfortable and he was confident, down to earth, and easy to
19 talk with" (AR. 616-17). The ALJ noted that plaintiff "was positive and laughed/joked
20 quite a bit throughout the interview [and] stated that he was not working because he was
21 in school" (AR. 617). As noted by the ALJ, plaintiff had been "studying electrical
22 engineering at North Seattle Community College, where he had been attending since
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1 winter quarter 2015 without complaints concerning security, disruption of class, or
2 expulsion” (*id.*).

3 Regarding his failure to credit fully plaintiff’s allegations and testimony, the ALJ
4 found that plaintiff’s “documented daily activities and social interaction are inconsistent
5 with his allegations of disabling functional in social deficits” (*id.*). Although plaintiff has
6 not challenged explicitly the ALJ’s evaluation of his allegations and testimony, the Court
7 concludes that the ALJ offered clear and convincing reasons based on substantial
8 evidence in the record as a whole for the failure to credit fully plaintiff’s allegations of
9 limitations. *See Smolen v. Chater*, 80 F.3d 1273, 1284 (9th Cir. 1996) (citing *Dodrill v.*
10 *Shalala*, 12 F.3d 915, 918 (9th Cir.1993)) (If an ALJ rejects the testimony of a claimant
11 once an underlying impairment has been established, the ALJ must support the rejection
12 “by offering specific, clear and convincing reasons for doing so”). The Court notes that
13 the ALJ also relied on plaintiff’s conviction for welfare fraud when discounting
14 plaintiff’s testimony (*see* AR. 615), as well as plaintiff’s “ability to fly to California,
15 [which] tends to suggest that the alleged symptoms and limitations may have been
16 overstated, [as] flights on airplanes that take several hours require airport check-ins with
17 luggage and standing in security lines [and] also requires one to interact appropriately
18 with other people in crowded airport terminals and on board the airplane” (AR. 617).

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20 Regarding the medical opinion of Dr. Meis, the ALJ assigned “little weight to Dr.
21 Meis’s consultative assessment that the claimant was markedly limited in his ability to
22 interact appropriately with others and respond appropriately to usual work situations and
23 to changes in a routine work setting” (AR. 619 (citing AR. 928)). In doing so, the ALJ
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1 | noted Dr. Meis's concerns regarding malingering and plaintiff's history of fraud, as well
2 | as Dr. Meis's opinion regarding plaintiff's atypical presentation (*id.*). The ALJ also noted
3 | the CDIU investigation which "subsequently revealed inconsistencies that supported Dr.
4 | Meis's concerns and diminish the claimant's [allegations of limitations]" (*id.*). Finally,
5 | the ALJ relied on his finding that Dr. Meis's opinion regarding social limitations "is also
6 | inconsistent with the claimant's ability to interact with peers and authority figures in
7 | earning his welding certificate and pursuing his degree in electrical engineering" (*id.*).
8 | Based on the record as a whole, the Court concludes that the ALJ provided clear and
9 | convincing reasons for his failure to credit fully the opinions from Dr. Meis regarding
10 | social limitations. *See Lester*, 81 F.3d at 830.
11 |

12 | **b. Dr. James Hopfenbeck, M.D. and Dr. James Czysz, Psy.D**

13 | Plaintiff contends that Dr. Hopfenbeck opines that plaintiff is "severely impaired
14 | and would pose a threat to -- at a job" (Dkt. 12, p. 2 (citing AR. 30)). Plaintiff actually is
15 | quoting his attorney's opening statement at his previous administrative hearing, held on
16 | July 12, 2012 (*see* AR. 30). Nevertheless, Dr. Hopfenbeck opined on July 27, 2011 that
17 | plaintiff suffered from marked limitations in his ability to communicate and perform
18 | effectively in a work setting with public contact and that he was severely limited in his
19 | ability to maintain appropriate behavior in a work setting, noting that plaintiff "would
20 | project paranoia; others would feel unsafe, threatened; has assaulted others in recent
21 | years" (AR. 434). Defendant contends that the ALJ reasonably declined to rely on the
22 | opinions of Dr. Hopfenbeck and Dr. Czysz (Dkt. 13, pp. 6-9).
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1 Dr. Hopfenbeck provided a number of opinions regarding plaintiff's limitations
2 and ability to work (*see* AR. 410, 432-35, 605, 909-15, 931). In addition to the specific
3 limitations already mentioned, in June 27, 2012, Dr. Hopfenbeck indicated that plaintiff's
4 diagnoses include major depression with psychotic features and a personality disorder
5 with paranoid and antisocial features (*see* AR. 605). At that time, he also opined that
6 plaintiff "has no ability to maintain social functioning, is constantly distracted by his
7 obsessional delusions, and has repeatedly deteriorated and decompensated in work
8 settings" (*id.*). On March 26, 2014, he opined that plaintiff had marked limitations in his
9 ability to ask simple questions or request assistance; communicate and perform
10 effectively in a work setting; complete a normal workday and workweek without
11 interruptions from psychologically-based symptoms; as well as severe limitations in his
12 ability to maintain appropriate behavior in a work setting (AR. 911).

14 In November 2011, Dr. James Czysz, Psy.D., provided a similar opinion to Dr.
15 Hopfenbeck's (*see* AR. 436-42). For example, Dr. Czysz opined that plaintiff suffered
16 from marked limitations in his ability to perform effectively in a work setting with
17 limited public contact and severely limited in his ability to maintain appropriate behavior
18 in a work setting (AR. 439). In his additional remarks, Dr. Czysz noted that in
19 "considering negative impression management, there are some indications that [plaintiff]
20 tended to portray himself in a negative light, although [he opined that] this pattern is
21 relatively mild and does not necessarily render the test results uninterpretable" (AR. 440).
22 Although plaintiff reported "a number of difficulties consistent with a significant
23 depressive experience," Dr. Czysz noted that "there appear to be relatively few
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1 physiological signs of depression,” further noting that the “symptom picture appears to be
2 relatively free of changes in energy, appetite, weight, and sleep patterns” (*id.*).

3 The ALJ discussed the opinions of Dr. Hopfenbeck and Dr. Czysz together, and
4 failed to credit them fully (*see* AR. 619-20). The ALJ found that the doctors’ opinions
5 “are inconsistent with the claimant’s documented daily activities set forth above” (AR.
6 620). The ALJ specified that, as “noted by the District Court, at issue is primarily the
7 claimant’s social functioning and capacity to interact with others” (*id.*). The ALJ then
8 reviewed the activities of plaintiff which he found to be inconsistent with the opinions
9 from the doctors regarding plaintiff’s social functioning:
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11 The claimant earned a two-year welding degree at Everett Community
12 College in 2014. After he applied for welding jobs but did not get hired,
13 he enrolled in North Seattle Community College to pursue a degree in
14 electrical engineering. The claimant’s ability to attend college requires
15 interaction with others (classmates, professors, etc.) and he testified
16 about working with fellow students (July 2012 hearing testimony). His
17 4.0 GPA (at least at the time of his hearing in 2012), and his ability to go
18 [on to] earn his welding certificate and pursue a degree in electrical
19 engineering, show that he has the ability to interact with a variety of
20 peers and authority figures. He acknowledged that he did not have any
21 behavioral problems at school and the CDIU investigator noted that the
22 claimant was very receptive, down-to-earth, positive, and easy to talk
23 with (internal citations to AR. 923, 1060).

24 (AR. 620).

The Court concludes that the findings by the ALJ are supported by substantial
evidence in the record as a whole. The Court also concludes that the ALJ’s rationale for
failing to credit fully the opinions of Drs. Hopfenbeck and Czysz is clear and convincing.

1 For the reason stated and based on the record as a whole, the Court concludes the
2 ALJ did not commit harmful legal error when evaluating the medical evidence regarding
3 plaintiff's mental impairments and limitations.

4 **2. Physical complaints**

5 **a. Ms. Cindy Meinecke**

6 Although plaintiff contends that his "medical doctor," Ms. Cindy Meinecke,
7 ARNP, MPH, has opined that plaintiff cannot work due to physical ailments from the car
8 accident which occurred on July 29, 1997 (Dkt. 12, p. 1), defendant argues that Ms.
9 Meinecke is a family nurse practitioner, not a medical doctor (Dkt. 13, p. 9). Defendant
10 further argues that "the effects of [plaintiff's] leg condition were previously adjudicated
11 in a 2008 decision affirmed by this court in 2010" (*id.*). Furthermore, defendant contends
12 that "in any event, the ALJ identified inconsistencies between Ms. Meinecke's opinion
13 and other evidence in the record that are more than sufficient to meet the 'germane
14 reason' standard" (*id.* (citation omitted)). Defendant's arguments are persuasive.

15 Pursuant to the relevant federal regulations, in addition to "acceptable medical
16 sources," that is, sources "who can provide evidence to establish an impairment," 20
17 C.F.R. § 404.1513 (a), there are "other sources," such as friends and family members,
18 who are defined as "other non-medical sources" and "other sources" such as nurse
19 practitioners, physician assistants, therapists and chiropractors, who are considered other
20 medical sources, *see* 20 C.F.R. § 404.1513 (d). *See also Turner v. Comm'r of Soc. Sec.*,
21 613 F.3d 1217, 1223-24 (9th Cir. 2010) (citing 20 C.F.R. § 404.1513(a), (d)); Social
22 Security Ruling "SSR" 06-3p, 2006 SSR LEXIS 5 at *4-*5, 2006 WL 2329939. An ALJ
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1 may disregard opinion evidence provided by both types of “other sources,” characterized
2 by the Ninth Circuit as lay testimony, “if the ALJ ‘gives reasons germane to each witness
3 for doing so.’” *Turner, supra*, 613 F.3d at 1224 (quoting *Lewis v. Apfel*, 236 F.3d 503,
4 511 (9th Cir. 2001)); *see also Van Nguyen v. Chater*, 100 F.3d 1462, 1467 (9th Cir.
5 1996).

6 Ms. Meinecke opined that plaintiff was disabled from a car accident in 1997 due
7 to his chronic leg swelling and pain (*see* AR. 390). The ALJ adopted and incorporated the
8 previous written decision from ALJ Alexis with respect to the opinion of Ms. Meinecke,
9 other than a comment about Ms. Meinecke not being acceptable medical source (*see* AR.
10 620). In this previous written decision, ALJ Alexis failed to credit fully Ms. Meinecke’s
11 opinion regarding disability with a finding that it “conflicts with the record and with
12 [plaintiff’s] activities of daily living as discussed at length above” (*see* AR. 17). ALJ
13 Alexis provided examples, noting that while Ms. Meinecke “opines that the claimant has
14 chronic leg pain and swelling, he helped a friend move stones during his relevant period
15 at issue,” also noting that plaintiff exercises by riding a stationary bike, lifting weights,
16 and walking (*see id.* at 17-18). In addition, ALJ Alexis noted that Ms. Meinecke admitted
17 that she had not seen plaintiff since August 2010 (*see* AR. 18 (citing AR. 425)). These
18 findings regarding an inconsistency are based on substantial evidence in the record as a
19 whole (*see* AR. 425, 468 (plaintiff “rides his stationary bike” and goes for walks), 505
20 (lifts weights), 506 (plaintiff reported that he had “been moving stones for friend”), 585
21 (lifting weights and using a stationary bike). The Court also notes that in one of these
22 treatment records, from February 19, 2010, plaintiff reported that “if it keeps on being
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1 | sunny like this I will start running at the park” and was observed to be “in the best spirits
2 | that [the provider] had ever seen” (AR. 505).

3 | The Court also concludes that the finding that these reports from the treatment
4 | record are inconsistent with the opinion from Ms. Meinecke regarding disability based on
5 | leg pain and swelling is a germane reason for failing to credit fully Ms. Meinecke’s
6 | opinion. The ALJ did not err.

7 | **b. Dr. Philip Buenvenida, M.D.**

8 | Plaintiff mentions, but does not directly challenge the ALJ’s failure to credit fully
9 | the opinion from Dr. Buenvenida, however, the Court notes that the ALJ indicated that he
10 | gave less weight to the opinion of Dr. Buenvenida versus the opinions of Dr. Merrill and
11 | Dr. Bernardez, as the ALJ found that these latter opinions were more “consistent with the
12 | claimant’s longitudinal treatment history, the objective clinical findings, and his
13 | performance on physical examinations set forth above and in Judge Alexis’s 2012
14 | decision” (AR. 618). Contrary to the opinion of Dr. Buenvenida that plaintiff was unable
15 | to lift more than 10 pounds, as noted above, and as noted in the previous written decision
16 | by ALJ Alexis, various activities of plaintiff, such as helping a friend move stones, are
17 | not consistent with this opinion, *see supra*, section 2.a (*see, e.g.*, AR. 506 (plaintiff
18 | reported that he had “been moving stones for friend”)). The Court concludes that the ALJ
19 | offered specific and legitimate rationale based on substantial evidence in the record as a
20 | whole for failing to credit fully the medical opinion of Dr. Buenvenida.
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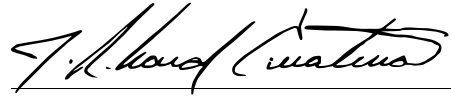
1 For the reasons stated and based on the record as a whole, Court concludes that the
2 ALJ did not commit harmful legal error when evaluating the medical evidence regarding
3 plaintiff's physical impairments and limitations.

4 CONCLUSION

5 Based on the stated reasons and the relevant record, the Court **ORDERS** that this
6 matter be **AFFIRMED** pursuant to sentence four of 42 U.S.C. § 405(g).

7 **JUDGMENT** should be for defendant the case should be closed.

8 Dated this 13th day of December, 2016.

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11 J. Richard Creatura
12 United States Magistrate Judge
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